

ASSEMBLY BILL

No. 2349

Introduced by Assembly Member Nestande

February 24, 2012

An act to amend Section 25500.2 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 2349, as introduced, Nestande. Alcoholic beverages: tied-house restrictions: advertising.

The Alcoholic Beverage Control Act contains limitations on sales commonly known as “tied-house” restrictions, which generally prohibit a manufacturer, winegrower, manufacturer’s agent, California winegrower’s agent, rectifier, distiller, bottler, importer, or wholesaler from furnishing, giving, or lending any money or other thing of value to any person engaged in operating, owning, or maintaining any off-sale licensed premises. For purposes of these provisions, the listing of the names, addresses, telephone numbers or e-mail addresses, or both, or Internet Web site addresses, of 2 or more unaffiliated on-sale retailers selling beer, wine, or distilled spirits, and operating and licensed as bona fide public eating places selling the beer, wine, or distilled spirits produced, distributed, or imported by a nonretail industry member in response to a direct inquiry from a consumer, as specified, does not constitute a thing of value or prohibited inducement to the listed on-sale retailer, if specified conditions are met.

This would revise the direct inquiry provisions to remove the requirement that the unaffiliated on-sale retailer operates and is licensed as a bona fide public eating place.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25500.2 of the Business and Professions
2 Code is amended to read:
3 25500.2. (a) Notwithstanding Section 25500, the listing of the
4 names, addresses, telephone numbers, e-mail addresses, or Internet
5 Web site addresses, of two or more unaffiliated on-sale retailers
6 selling beer, wine, or distilled spirits, ~~and operating and licensed~~
7 ~~as bona fide public eating places pursuant to Section 23038 selling~~
8 ~~the beer, wine, or distilled spirits~~ produced, distributed, or imported
9 by a nonretail industry member in response to a direct inquiry from
10 a consumer received by telephone, by mail, by electronic inquiry,
11 or in person does not constitute a thing of value or prohibited
12 inducement to the listed on-sale retailer, provided all of the
13 following conditions are met:
14 (1) The listing does not also contain the retail price of the
15 product.
16 (2) The listing is the only reference to the on-sale retailers in
17 the direct communication.
18 (3) The listing does not refer only to one on-sale retailer or only
19 to on-sale retail establishments controlled directly or indirectly by
20 the same on-sale retailer.
21 (4) The listing is made by, or produced by, or paid for,
22 exclusively by the nonretail industry member making the response.
23 (b) For the purposes of this section, “nonretail industry member”
24 is defined as a manufacturer, including, but not limited to, a beer
25 manufacturer, winegrower, or distiller of alcoholic beverages or
26 an agent of that entity, or a wholesaler, regardless of any other
27 licenses held directly or indirectly by that person.